

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**PRIME RESIDENTIAL BRONX R & RI, LLC  
C/O PRIME REALTY SERVICES, LLC <sup>1</sup>**

**Employer**

**- and -**

**Case No. 2-RC-22182**

**SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 32E, AFL-CIO, CLC**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Susannah Z. Ringel, a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its authority in this proceeding to the Regional Director, Region 2.

Upon the entire record in this proceeding<sup>2</sup>, it is found that:

1. The Hearing Officer's rulings are free from prejudicial error and hereby are affirmed.
2. The Petitioner seeks an election to represent certain employees employed at several buildings located in Manhattan and the Bronx. The buildings involved herein are located at 18 Jacobus Place, Manhattan, and 2630 Marion Avenue, 163 E. 184<sup>th</sup> Street and 950 Woodycrest, all of which are located in The Bronx,

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<sup>1</sup> As discussed below, the name of Prime Realty Services LLC was corrected to reflect the identity of the Employer and as amended at hearing.

<sup>2</sup> The briefs, filed by Counsel to the Employer and the Union, have been carefully considered.

New York. All four buildings are managed by Prime Realty Services, LLC, herein “Prime Realty”.<sup>3</sup> Prime Residential R&R Holdings, LLC, (“Prime Holdings”) owns Prime Residential Bronx R&R V, LLC, the owner of the building at 163 E. 184<sup>th</sup> Street, Prime Residential Bronx R&R I, LLC, the owner of the building at 2630 Marion Avenue, and Prime Residential Manhattan R&R III, LLC, the owner of the building at 18 Jacobus Place. The fourth property involved herein, 950 Woodycrest, is owned by Prime Residential Bronx I, LLC, which is a limited liability company owned entirely Multi-Family Realty Investments I (“Multi-Family”), a limited partnership (LP). Multi-Family is itself owned by New York Multi-Family Realty III, LLC, a general partner, and two limited partners, New York Multi-Family Realty I, LLC, and Multi-Dwelling Properties I, LLC. New York Multi-Family Realty III, LLC is itself owned by Prudential<sup>4</sup> as a fiduciary for a co-mingled pension fund. New York Multi-Family Realty I, LLC is owned by New York Multi-Family Realty III, LLC (the general partnership owned by Prudential). Multi-Dwelling Properties I, LLC is owned by Robert Kliegerman (50%) and Richard Aidekman (50%).

The parties stipulated for jurisdictional purposes only that Prime Realty is a joint employer with the owners of each of the buildings petitioned for by the Union. For the reasons discussed more fully below, the record amply demonstrates that Prime Realty and the board of directors for each building jointly establish the terms and conditions of employment for the employee employed at each building. While the managing agent is responsible for the day-to-day operation of each of the buildings, it does so in conjunction with the building owner’s board. Thus, based upon the stipulation of the parties and the record evidence, I find that Prime Realty and the building owners are

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<sup>3</sup> Prime Realty Services Inc. was reorganized as a limited liability corporation in January 2000. The ownership remained the same.

joint employers.<sup>5</sup> While it appears that none of the four ownership groups satisfy the standard for assertion of jurisdiction<sup>6</sup> individually, it is appropriate to assert jurisdiction over the managing agent herein. As noted above, the parties stipulated and I have found that Prime Realty, as managing agent, is a joint employer with the owner at each of the locations involved herein, and it is appropriate to assert jurisdiction over the managing agent as an employer of the employees here. The parties stipulated that Prime Realty derives gross revenues from all of the buildings that it manages in excess of \$500,000 and purchases goods, materials and supplies for these facilities that are valued in excess of \$5,000 from suppliers outside the State of New York.

Accordingly, based upon the record and stipulation of the parties, I find that Prime Realty is engaged in commerce within the meaning of the Act (see *Riverdale Manor Owners Corp.*, 311 NLRB 1094, fn 1 (1993) ) and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated and I find that Service Employees International Union, Local 32E, AFL-CIO is a labor organization within the meaning of Section 2(5) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of Section 9(c) and Section 2(6) and (7) of the Act.

5. Petitioner seeks to represent a unit comprised of all full-time and regular part-time building maintenance employees, but excluding all office and clericals,

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<sup>4</sup> Prudential's interest is as a fiduciary for Prudential Realty Investors Separate Account ("PRISA"), a co-mingled pension fund.

<sup>5</sup> The issue of whether the various building owners constitute a single integrated employer is also discussed below.

<sup>6</sup> As discussed below, the buildings at 18 Jacobus Place, 163 East 184<sup>th</sup> Street and 2630 Marion Avenue are commonly owned and constitute a single integrated enterprise. These buildings collectively derive gross revenue in excess of \$500,000.

guards, and supervisors at the four buildings described above. Petitioner maintains that a unit comprised of the four buildings involved herein is an appropriate unit because the buildings are functionally integrated and commonly managed. Petitioner further maintains that the employees share a community of interest because of the functional integration, common supervision, and centralization of labor relations and the purchasing, payroll and support operations.<sup>7</sup> The Employers contend that a multi-location unit is inappropriate because (1) each building is geographically distinct ; (2) each individual building is an autonomous unit; (3) there is no interchange of employees between the properties; and (4) individual housing companies are historically separate appropriate units.

As noted above, the record establishes that Prime Residential R&R Holdings, LLC, ("Prime Holdings") owns Prime Residential Bronx R&R V, LLC, the owner of the building at 163 E. 184<sup>th</sup> Street, Prime Residential Bronx R&R I, LLC, the owner of the building at 2630 Marion Avenue, and Prime Residential Manhattan R&R III, LLC, the owner of the building at 18 Jacobus Place. These three entities are all limited liability companies. 37.5% of Prime Holdings is owned by Multi-Dwelling Properties IV, LLC ("Multi-Dwelling"), and the remaining 62.5% is owned by Prudential Insurance Company of America ("Prudential") as a fiduciary for certain co-mingled pension funds. Multi-Dwelling is owned by individual shareholders in varying percentages (30.5% by Richard Aidekman, 30.5% by Robert Kligerman, 22% by Howard Schwade , 12% by Arthur Green, and 5% by Kevin Wang).

Prime Holdings is governed by a five-person board<sup>8</sup>, three of whom represent Prudential and two of whom represent Multi-Dwelling. The board reviews revenues

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<sup>7</sup> I note that the Petitioner represented its willingness to go to election in units other than that for which it petitioned.

<sup>8</sup> Each member has one vote.

from rents and how much to spend on capital expenses, as well as taxes, insurance, water and sewer expenses, and repair and maintenance expenses. The board also determines the pay and benefits offered to the employees. Any changes to the pay and benefits of employees must be approved by the board.

The fourth property involved herein, 950 Woodycrest, is owned by Prime Residential Bronx I, LLC, which is a limited liability company owned entirely Multi-Family Realty Investments I ("Multi-Family"), a limited partnership (LP). Multi-Family is itself owned by New York Multi-Family Realty III, LLC, a general partner, and two limited partners, New York Multi-Family Realty I, LLC, and Multi-Dwelling Properties I, LLC. New York Multi-Family Realty III, LLC is itself owned by Prudential<sup>9</sup> as a fiduciary for a co-mingled pension fund. New York Multi-Family Realty I, LLC is owned by New York Multi-Family Realty III, LLC (the general partnership owned by Prudential). Multi-Dwelling Properties I, LLC is owned by Robert Kliegerman (50%) and Richard Aidekman (50%).

Arthur Green is the Chief Operating Officer of Prime Realty and one of Multi-Dwelling's representatives on the Prime Holding's board. In this regard, Green testified that Richard Aidekman, Robert Kligerman and Howard Schwade are also members of the board. Green testified that Multi-Family is governed by a five-person board. Prudential appoints three of the members and Multi-Dwelling Properties I, LLC, appoints two members<sup>10</sup>. The Multi-Dwelling Properties I, LLC board's responsibilities are similar to those of the Prime Holdings board. It approves the annual budget and

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<sup>9</sup> Prudential's interest is as a fiduciary for Prudential Realty Investors Separate Account ("PRISA"), a co-mingled pension fund.

<sup>10</sup> The Prudential representatives who sit on the Multi-Family board are not the same individuals who represent Prudential on Prime Holding's board. Prudential does not send the same representative to every board meeting. Green testified that usually Richard Aidekman and Green appear at the board meetings for Multi-Dwelling. Multi-

determines the employees' rates of pay and benefits. Changes to the pay and benefits must be approved by the board. The Board is required to meet twice a year at which time it reviews the building's budget. Various board members also hold informal telephone conversations.

Green testified that Prime Realty is the managing agent for various buildings, including each of the four buildings involved herein at 163 E. 184<sup>th</sup> Street, 2630 Marion Avenue, 18 Jacobus Place, and 950 Woodycrest. Prime Realty maintains its main office at 155 East 56<sup>th</sup> Street and has a field office located at 736 West 73<sup>rd</sup> Street. It maintains a management team that is responsible for the buildings within a specific area of the New York City's Boroughs. If the team is unable to handle a particular problem, either Jorge Lovera, senior property manager for Prime Realty or the Prime Realty's Legal Department is then contacted. Prime Realty directs, through various building managers, each building's superintendent (there is only one employee, a superintendent, employed at each of these buildings) in the performance of his duties. It issues the paychecks and pays all other benefits to the employees, but is reimbursed for these costs by the owner of each building. Prime Realty operates within the parameters of the budgets approved by the boards of the respective buildings and does not require the approval of the building's board for matters relating to the day-to-day operation of the building. It does, however, require board approval before it can exceed the budgetary allotment. Additionally a building's budget must be approved by Prudential either in whole or by individual budget line. Prime Realty has established a sexual harassment policy, a drug policy, a vacation policy, and other personnel policies that apply to all employees at all of the buildings under its management, regardless of whether the buildings have employees represented by a labor organization or not.

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Dwelling Properties I, LLC's representatives are Richard Aidekman and Robert Kligerman. Arthur Green is a substitute.

Each building has a separate bank account, mortgage, and insurance, and billing for goods and services is done separately for each location through Prime Realty's vendors .

Lovera, senior building manager for Prime Realty, testified that he oversees the day-to-day operations at 163 E. 184<sup>th</sup> Street, 2630 Marion Avenue, 18 Jacobus Place, and 950 Woodycrest and visits each property at least twice a week. In addition to the four buildings involved herein, Lovera is responsible for approximately 135 buildings. Lovera testified that he reports directly to Schwade at Prime Realty and provides updates on the buildings. Lovera further testified that he needs Schwade's approval for additional funds as may be required in an emergency situation. After a particular situation is brought to Schwade's attention, Schwade contacts the building owners about the matter. Lovera testified that he routinely informs Schwade about the operation of each of the buildings. He also on occasion approaches Schwade for advice or counseling with respect to daily operations, but he does so very rarely. Similarly, it is very rare for Schwade to give Lovera specific instructions concerning the operation of a particular building. Lovera further testified that he assigned James Velez as the building manager responsible for 950 Woodycrest and Humberto Velasquez as the building manager responsible for 163 E. 184<sup>th</sup> Street, 18 Jacobus, and 2630 Marion. Building managers visit each building every day and are responsible for the day-to-day operations in the buildings. They generally contact Lovera concerning matters of great importance such as emergencies. Building managers distribute paychecks to the superintendents which have been signed by Schwade on behalf of Prime Realty on a weekly basis. As only Lovera is authorized to discipline and hire and fire employees, Velez and Velasquez only have the authority to recommend, but not decide, on discipline. If a building manager notes that a superintendent has a

performance problem, he reports it to Lovera. Lovera and the Human Resources Department then decide what, if any, disciplinary action, is appropriate.

As noted above, the record establishes that there is one superintendent employed at each of the four locations here. The superintendent is the only employee employed at each building. Lovera testified that Yonis Santa Mella is the superintendent at 950 Woodycrest. This building has an elevator, approximately 60 residential units and some commercial space. Santa Mella is a full-time superintendent from 8:00 am to 4:00 pm, and is on call at all times for emergencies. He earns \$350 per week, and is provided with a two bedroom apartment and all utilities, and a \$20 monthly phone reimbursement. Timothy Fohs is the superintendent at 163 E. 184<sup>th</sup> Street, a building that does not have an elevator. It has 18 residential units and commercial space. Fohs is provided with a two bedroom apartment including utilities, and a \$10 phone reimbursement. He is employed part-time (20 hours / week) and earns approximately \$200 per week. Fohs' sets his hours after consultation with the building manager. Alfred Stakeman is the superintendent at 2630 Marion. This building has 30 residential units as well as some commercial space, but does not have an elevator. Stakeman is employed part-time (20 hours / week and on call) and earns \$175 per week. He also receives a two bedroom apartment including utilities, and a \$10 or \$15 phone reimbursement. Manuel Garcia is the superintendent at 18 Jacobus Place. This building has an elevator and 66 residential units. Garcia is employed full time and earns \$350 per week. He also receives an apartment including utilities, and a \$15 phone reimbursement.<sup>11</sup> The job descriptions for full and part-time employees at the various locations are similar. Lovera testified that the only difference between a building with an elevator and a walk-up building is that the superintendent in an

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<sup>11</sup> Lovera did not have direct knowledge of how many rooms the apartment has, but testified that basement apartments generally have two bedrooms.



elevator building has to call a service to repair or maintain the elevator and has less sweeping and mopping. While a superintendent responds to tenant complaints, if he is confronted with a situation requiring technical assistance, he must notify the Prime Realty office. Prime Realty then inspects the situation and decides whether or not to call in a contractor.

Lovera recruits new hires through walk-ins who drop off resumes with Prime Realty or by placing an advertisement in the newspaper. After reviewing the resumes, Lovera refers the application to the building manager for consideration. The building manager conducts the initial interview while Lovera conducts the follow-up interview for the more promising applicants. If Lovera and the Building Manager like the applicant, they pass the application onto Prime Realty's Human Resources Department which makes the final hiring decision. Employees also go to the Human Resources Department with any personnel problems. When they take vacation leave, the superintendents give Lovera 30 days advance notification of the leave request and generally arrange for a friend or family member to serve as their replacement.. Lovera interviews the proposed replacement and refers them to Prime Realty's Human Resources Department for employment on a temporary basis.

The superintendent and building manager together determine the superintendent's hours and report those hours to Lovera who has the final authority to approve schedules for employees at the buildings. The salary for superintendent is determined by the building owners. Lovera may request a wage increase for a superintendent, but must get the owners' approval to do so. Lovera has done this in the past. He did it most recently for 25 to 30 of the employees at his 135 buildings at Christmas 1999. He recommended raises for employees at three of the buildings at issue in the instant matter, but only two of these requests were granted. Lovera testified that he believed that the recommendation for increases went to Schwade.

Lovera also has authority to approve vacation schedules for the superintendents.

Lovera further testified that the superintendents submit a request for supplies to the building manager each month. The building manager thereafter orders the supplies from Prime Realty's vendor for direct delivery. Buildings superintendents request daily supplies from the building manager. If a superintendent is in need of specific supplies to make a repair, he orders them from Prime Realty's main office. However, all orders for heating oil are directed to a single person at Prime Realty. A superintendent calls Lovera directly only if he had a problem with his building manager.

Lovera further testified that there is no interchange of employees between the buildings. Prime Realty did, however, hold a mandatory meeting for the superintendents at the four buildings a week prior to the hearing in this matter. At that meeting, Lovera and Rose Muncy, Prime Realty's acting office supervisor, distributed flyers setting forth new office procedures for all employees.

Esad Kukaj is Prime Realty's Director of Operations. He supervises the contractors working in vacant apartments. Prime Realty assigns some apartment renovation work to superintendents. When doing renovation work, the superintendents report to Kukaj directly or through his assistant. If a tenant calls the office with a complaint, Prime Realty has intake personnel who record the information and then give the information to the office management team. The team then gets back in touch with the tenant and makes arrangements for the repair. The teams currently report to Muncy, Prime Realty's acting office supervisor. Muncy is also part of Prime Realty's legal department.

The distance between 950 Woodycrest and 163 E. 184<sup>th</sup> Street is approximately two and a half to three miles by car. The distance between 950 Woodycrest and 2630 Marion is approximately one mile by car. The distance between 950 Woodycrest and 18 Jacobus Place is approximately four miles by car.

The Employer asserts that the respective entities that own each building are separate and distinct entities and as such it would be inappropriate to require them to jointly bargain absent their consent. See *Greenhoot, Inc.* 205 NLRB 250 (1973). The Petitioner apparently contends that the four buildings constitute a single integrated enterprise.

There is no question that in the circumstances set forth herein, Prime Realty and the building owners are joint employers. The Board will find a joint employer relationship if employers share or codetermine those matters governing the essential terms and conditions of employment. *TLI, Inc.*, 271 NLRB 798 (1984). This determination is to be made on a case-by-case basis. The question to be resolved in this case is whether the building owners exercise, or have the right to exercise, sufficient control over the labor relations policies of the managing agent or over the wages, hours, and working conditions of the contractor's employees. Prime Realty operates all four of the buildings on a day-to-day basis. The managing agent hires and supervises the employees at each location, but any increase in remuneration must be approved through the building's board. The raises recommended by the managing agent require approval by the board which retained final authority on the amount of such increases. The board maintained a close contact with Prime Realty and received updates from the managing agent on the situation at the buildings. In view of the joint authority over the employees, I find that Prime Realty is a joint employer with the owner or owners of the buildings. *Southern California Gas Co.*, 302 NLRB 456 (1991); *Cabot Corp.*, 223 NLRB 1388 (1976). See also *Clinton's Ditch Co.*, 274 NLRB 728, fn 3 (1985).

In determining whether one or more entities are a single employer, the Board examines the following factors: (1) common ownership; (2) interrelation of operations (3) common management; and (4) centralized control of labor relations. *Alexander*

*Bistritzky*, 323 NLRB 524 (1997). The record here establishes that three of the buildings, 2630 Marion Avenue, 163 East 184<sup>th</sup> Street, and 18 Jacobus Place have an identical ownership structure, with Prudential as a fiduciary for co-mingled pension funds holding the majority of the shares of Prime Holdings. The fourth building, 950 Woodycrest, has a significantly different ownership structure, although some of its owners have some minor ownership interest in the other three buildings.

The record establishes that 18 Jacobus Place, 2630 Marion Avenue, and 163 E. 184<sup>th</sup> Street are owned by separate limited liability companies, which are all owned by Prime Holdings. Thus, the record establishes that these three buildings share common owners.

A review of the record establishes that these three buildings are not only commonly owned, but have common management, integration of its business operations and centralized control of labor relations. While the Employer contends that the board treats each building separately, with separate bank accounts, mortgages, insurance and budgets, the record reveals to the contrary that Prime Holdings' board determines the pay and benefits to be offered to the superintendent in each building. The same board also decides whether to grant a superintendent a raise or bonus. Lovera testified that he recommended raises at three of the buildings at issue herein around Christmas 1999, but that the board only approved one of the requests.<sup>12</sup> The board must also be consulted before a superintendent is terminated. While Prime Realty does not require the owners' approval for day-to-day operations, it does require a board's approval before it can spend more money than it had been allotted. Velasquez serves as the building manager for all three of these buildings. He is responsible for day-to-day operations at the three buildings, and visits the buildings

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<sup>12</sup> The record does not establish which buildings. Lovera starts the process by submitting a form to Prime Realty Services' Human Resources Department.

every day, although he contacts Lovera in emergency situations. It appears from the record that Prime Realty presents a proposed budget to the Prudential representatives on Prime Holdings' board, and that the budget is approved in part or in its entirety. In the event additional expenditures are needed, Schwade requires approval of the board for such expenditures.

Thus the record establishes that 18 Jacobus Place, 2630 Marion Avenue, and 163 E. 184<sup>th</sup> Street, though held by separate limited liability companies, have common ownership and are managed by a single entity (the board) which controls pay, benefits and tenure. The buildings are geographically proximate to each other and as such have been placed under the same management team by Prime Realty. Further the labor relations authority is vested in the same board and building manager. Based upon the record herein, it appears that the three buildings located at 18 Jacobus Place, 2630 Marion Avenue, and 163 E. 184<sup>th</sup> Street constitute a single enterprise.

This is not the case at 950 Woodycrest. Woodycrest is substantially owned by two individuals who have a minor interest in the other three buildings, but are not their majority owner. While Prudential, as a fiduciary is the majority owner of the other buildings, their ownership interest in Woodycrest is insubstantial. Further, Prime Realty has assigned a different building manager to Woodycrest who manages this facility in conjunction with a separate board. Thus, it appears from the record that Woodycrest is not a single employer with the other three, but is at most a joint employer with it. As such, it cannot be required to join in bargaining with the owner of the other facilities absent its consent. See *Greenhoot*, supra.

The Employer contends that if there is found to be a single integrated business, the Board should find the unit limited to single facilities. It further contends that the Petitioner in seeking a multi-location unit must overcome a presumption that a single location is appropriate. See *J & L Plate*, 310 NLRB 429 (1993). However, the

presumptive appropriateness of a single-facility unit is inapplicable where, as here, the petitioner seeks to represent a multi-facility unit. *Hazard Express, Inc.*, 324 NLRB 989 (1997) The issue to be decided herein is not whether each building could be an appropriate unit, but whether Petitioner's request for a multi-location unit is an appropriate unit. It is well established that Petitioner need not seek the most appropriate unit, but only that the petitioned for unit be an appropriate unit. *Morand Bros. Beverage Co.*, 91 NLRB 409 (1950).

In determining whether a multi-location unit is appropriate, the Board considers the community of interest among the employees working at the different locations. The determination involves an assessment of factors, such as central control over daily operations and labor relations, including the extent of local autonomy; similarity of employees' skills, functions, and working conditions; degree of employee interchange; distance between the various locations operated by the employer; and the collective-bargaining history, if any. *First Security Services Corp.*, 329 NLRB No. 25 (1999)

The balance of the factors present in this case militate in favor of the employees who work at the three buildings being combined in a single unit. Prime Realty maintains central control over daily operations and its operational procedures are applicable to all three facilities. The superintendents call their orders for supplies to the Main Office, which is responsible for coordinating repair assignments and the purchase and distribution of repair and maintenance materials. All three superintendents share the same immediate supervisor. Velasquez is responsible for the day-to-day operations at all three sites, and visits each building every day.<sup>13</sup> Velasquez works out the superintendents' schedules with them. Velasquez can recommend to Lovera who to hire, discipline and fire in the buildings. It appears that hiring and disciplinary decisions affecting the three facilities are established by, with ascending degrees of

authority, Velasquez, Lovera and Prime Realty's Human Resources Department. In addition, Prime Realty 's sexual harassment, drug, vacation personnel The superintendents are subject to Prime Realty's personnel policies. While the record discloses that there is no interchange among these employees, all three attended a company meeting concerning office procedures.

While the record does not establish the respective employees' skills or the types of work performed, I note that all three are superintendents in residential or residential/commercial buildings. All three respond to tenant complaints. All three would be supervised by Esad Kukay or his assistant if performing renovation work in their building. The only difference between the buildings appears to be one of scale and that some have elevators. I note that Garcia, a full time superintendent, is responsible for a building of 66 residential units whereas Stakeman and Fohs, part-time superintendents, are responsible for buildings of 30 and 18 units respectively. While Garcia's building has an elevator and Stakeman and Fohs' buildings do not, Lovera testified that the difference is that Garcia may, on the one hand, have to call a service person, but on the other has less sweeping or mop work.

Finally, all three receive similarly a structured package of benefits which stems from agreements between Prime Realty and Prime Holdings. All three receive two room apartments, a telephone allowance, and a weekly paycheck from Prime Realty. There is also a degree of geographic coherence among the building locations. See *Metropolitan Life Insurance Co.*, 156 NLRB 1408, 1415 (1966). The map introduced into evidence shows 2630 Marion Ave is approximately one half mile from 163 E.<sup>184th</sup>

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<sup>13</sup> The record does not establish whether Velasquez is responsible for other buildings as well.

Street in the Bronx, and that both buildings are between one and one and a half miles from 18 Jacobus Place in Northern Manhattan.<sup>14</sup>

In determining the scope of the unit in this case, I am mindful of the importance the Board attributes to the frequency of employee interchange when determining whether employees who work in different groups share a community of interest. However, given the supervisory authority exercised by Velasquez and Lovera, and the similarities between their benefits and responsibilities, I find that all three buildings share a substantial community of interest despite the absence of interchange. The evidence in this case simply fails to support a presumption that the concerns of the employees at each location are significantly discordant or that each building is sufficiently independent. See *Big Y Foods, Inc.*, 238 NLRB 860 (1978). Accordingly, I conclude a multi-location unit consisting of the buildings located at 18 Jacobus Place, 2630 Marion Avenue, and 163 E. 184<sup>th</sup> Street is appropriate.

For all the foregoing reasons, I direct an election in the following unit<sup>15</sup> which is appropriate for the purposes of collective bargaining:

All full-time and part-time building maintenance employees, employed by the employer at the buildings located at 18 Jacobus Place, New York, NY; 2630 Marion Avenue, Bronx, NY; and 163 E. 184<sup>th</sup> Street, Bronx, NY; but excluding all office clericals, guards, and supervisors as defined under the Act.

#### DIRECTION OF ELECTION

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<sup>14</sup> I take official notice of the fact that the buildings are within the same northern part of the New York City metropolitan area and readily accessible by public transportation. The Board has found multiple locations of far greater distances to constitute a single appropriate unit, when other factors point to a single unit, as is the case here. See e.g., *Capital Coors Co.*, 322 NLRB 322 (1992) (90 miles between facilities); *Barber-Colman Co.*, 130 NLRB 478 (1961) (45 miles between facilities).

<sup>15</sup> As the remaining facility has but one employee and the record is silent on whether its owners hold any other facilities in a like manner, I must dismiss that portion of the petition that relates to 950 Woodycrest.



An election by secret ballot shall be conducted by the Regional Director, Region 2, among the employees in the unit found appropriate at the time and place set forth in the notices of election to be issued subsequently, subject to the Board's Rules and Regulations.<sup>16</sup> Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States who are in the units may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>17</sup> Those eligible shall vote whether they desire to be

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<sup>16</sup> Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer "at least 3 full working days prior to 12:01 a.m. of the day of the election." Section 103.20(a) of the Board's Rules. In addition, please be advised that the Board has held that Section 103.20 (c) of the Board's Rules requires that the Employer notify the Regional Office at least five full working days prior to 12:01 a.m. of the day of the election, if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB No. 52 (1995).

<sup>17</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issued in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *North Macon Health Care Facility*, 315 NLRB No. 50 (1994); *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven days of the date of this Decision, 3 copies of an election eligibility list, containing the full names and addresses of all eligible voters, shall be filed by the Employer with the Regional Director, Region 2, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office at the address below, on or before **MARCH 13, 2000**. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list, except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

represented for collective bargaining purposes by Service Employees International Union, Local 32E, AFL-CIO, CLC. <sup>18</sup>

Dated at New York, New York

This 6th day of March, 2000

(s) *Daniel Silverman*  
Daniel Silverman  
Regional Director, Region 2  
National Labor Relations Board  
26 Federal Plaza, Room 3614  
New York, New York 10278

Code: 401-7550

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<sup>18</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 Fourteenth Street, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by no later than **MARCH 20, 2000**.